



Member Resolution and Disciplinary Policy

<p>Committees, Groups, Meetings to which this policy applies: This policy applies to all members equally, whether holding an elected or appointed role, and those that do not.</p>
<p>Purpose of Document: Provide guidance on the process the RCN will follow when complaints are raised regarding member conduct or behaviour.</p>
<p>Document Name: RCN Member Resolution and Disciplinary Policy</p>
<p>Author/Authors: RCN Member Relations Team</p>
<p>Description of Policy This policy provides guidance on the management of alleged poor conduct and behaviour regarding RCN members.</p> <p>This policy sets out an informal approach for complaints that are appropriate to address through a resolution framework, alongside a formal disciplinary procedure to be utilised when addressing allegations that are not appropriate to be resolved informally.</p>
<p>Cross Reference: The following policies should be considered in conjunction with this policy: RCN Code of Conduct RCN Social Media Guidance RCN Complaints Policy RCN Respect Charter</p> <p>For members holding registration the following polices will also apply: The NMC Code of Conduct The Nolan Principles of Public Life</p> <p>For members holding elected or appointed roles the following policy will also apply: RCN Council, board and committee members - fit and proper persons criteria</p>
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POLICY SUMMARY: MEMBER RESOLUTION AND DISCIPLINARY POLICY

As an RCN Member you should:	As an organisation we will:
<ul style="list-style-type: none"> • Familiarise yourself with the standards of conduct outlined by the RCN Code of Conduct. • Cooperate fully with the requirements of the policy, should it be required. 	<ul style="list-style-type: none"> • Ensure that this policy and supporting information and processes are clear and accessible. • Identify a team or individual responsible for keeping this policy under review and in line with any relevant updated guidance. • Provide advice, training and support on how Member Resolution and Disciplinary should be managed. • Review and/or audit this policy and associated processes and procedures at least every 3 years.

1 INTRODUCTION

1.1 Members must act within the RCN standing orders, Code of Conduct and regulations of the RCN's Royal Charter, in addition to the fit and proper person's criteria for those members holding elected or appointed roles. The policy will be applied where the standards of behaviour and conduct of members are alleged to have fallen below expectations and requirements.

1.2 The aims of this policy are to:

- Enable the RCN to remedy any problems of misconduct or behaviour promptly and effectively.
- Ensure members are informed of the action that may be taken if they fail to meet the RCN's standards of conduct and behaviour.
- Deal with conduct matters fairly and lawfully, applying the principles of natural justice.
- Ensure all are treated with dignity and equity.

2 PURPOSE AND SCOPE

2.1 This policy and procedure will be used to maintain clear and unequivocal standards in such areas as:

- Conduct
- Behaviours
- Engagement with other members, RCN staff and those individuals or organisations that interact with the RCN.
- Carrying out duties and responsibilities on behalf of the College and its members collectively or individually.
- Conduct and behaviours on social media where such conduct and behaviours have a demonstrable bearing on the reputation of the College, or impact negatively on members, staff or those that engage in the business of the College.

2.2 This policy applies to all RCN members equally, whether elected, appointed or neither.

2.3 This policy can be invoked for alleged matters of misconduct, poor behaviour, or non-compliance. In addition, this policy may be invoked following an investigation conducted as part of a complaint raised by either RCN staff, an RCN member or non-RCN member.

2.4 This policy and procedure does not apply to staff employed by the RCN. Any allegation regarding staff will be managed using the staff Disciplinary Policy and Procedure, or the Customer Complaints Policy.

- 2.5 It is necessary to have a resolution policy and disciplinary process to ensure fairness and consistency in the treatment of members and to support the effective operation of the College.
- 2.6 It outlines the mechanisms that will be followed in order to deliver resolution of disciplinary matters in a fair, consistent, timely and impartial manner, assuring fairness in the treatment of members.
- 2.7 The policy and procedure will be applied in accordance with the principles of just culture and every attempt will be made to balance the principles of:
- Fairness
 - Openness
 - Learning
 - Individuals taking accountability for their own actions.
- 2.8 The RCN will assume that all concerns raised under this policy are raised in good faith. However, in the event that a complaint is found to be frivolous, malicious or vexatious, the complainant raising the matter may be subject to action under the Resolution and Disciplinary Policy for members, or RCN Disciplinary Policy and Procedure for staff.

3 POLICY STATEMENT

- 3.1 The Royal College of Nursing (RCN) aims to provide the very best member experience, which is dependent on the positive behaviours and conduct of all RCN members.
- 3.2 It is the policy of the RCN that any member not achieving the expected standard of conduct will be held accountable for their behaviours and may be subject to formal disciplinary action.
- 3.3 All parts of the resolution and disciplinary process will be conducted in a fair and consistent manner.
- 3.4 This policy sets out the actions to be taken to address such matters and the roles and responsibilities for those individuals involved in the process. The process intends to set out steps to deal with a situation reasonably, whether that is a matter seeking resolution, or one requiring more formal investigation under the disciplinary process.

4 HANDLING ALLEGATIONS OF MISCONDUCT

- 4.1 A member of the RCN, a member of RCN staff or any other person (including non-RCN members) may make a complaint in writing to the RCN concerning the conduct of a member. All complaints should be

directed to the Associate Director of Complaints and Investigations to ensure they are recorded appropriately.

- 4.2 A complaint must have been raised within 3 months from when the incident arose. Consideration will be given to exceptional circumstances where a complaint is not raised within that time period, and this will be at the discretion of the Associate Director of Complaints and Investigations.
- 4.3 The Associate Director of Complaints and Investigations (or in their absence a delegate) shall acknowledge a complaint within 7 days of receipt.
- 4.4 All individuals involved in the resolution and disciplinary process (including the respondent, witnesses, investigating team, staff members and panel members) are expected to maintain appropriate confidentiality. The RCN will use its best endeavours to maintain appropriate confidentiality but there will be circumstances when matters of this nature will need to be discussed with / by the Executive Team or Council depending on the individual situation and this will not constitute a breach of confidentiality.
- 4.5 Anyone who is required by the RCN to participate in the process (irrespective of their role) must make all reasonable efforts to do so and participate fully in it.
- 4.6 All investigations and actions will be undertaken without reasonable delay, recognising that delay can cause anxiety for members and prejudice a fair process.
- 4.7 In cases of alleged misconduct or gross misconduct, no formal sanctions will be imposed until the case has been investigated thoroughly, a disciplinary hearing has been held, and misconduct or gross misconduct has been established on the balance of probabilities.
- 4.8 The RCN will not normally impose any sanctions which are not specifically set out in this policy.
- 4.9 No member of the RCN will be disciplined in breach of sections 64 of the Trade Union Relations (Consolidation) Act 1992 or Article 31 of the Trade Union and Labour Relations (Northern Ireland) Order 1995. This relates, for example to disciplining a member for failing to participate in or support industrial action, or for leaving the RCN or joining another union.
- 4.10 Representation
 - 4.10.1 Respondents are entitled to representation throughout by an appropriate person.

4.10.2 An appropriate person should have no prior involvement in the matter and their involvement should not present a conflict.

4.10.3 An appropriate person may be a union representative of the RCN or other union, a colleague or friend.

4.10.4 Whether a representative is appropriate will be determined by the Panel Chair, should a matter proceed to a Member Disciplinary Hearing, or by the Associate Director of Complaints and Investigations in all other stages of the process applying the principles of section 4.10.2.

4.10.5 Legal representation is not permitted.

4.11 Investigating Officers, Member Disciplinary Panel members and Appeal Panel members may be appointed from RCN staff, selected member pools, or from individuals external to the RCN if that is considered appropriate by the Associate Director of Complaints and Investigations.

4.12 In cases where it is impracticable or inappropriate for the person specified to fulfil a role in question, for example due to illness, unavailability or perceived conflict of interest, another appropriate person may be appointed to that role.

4.13 Where a number of complaints are linked, for example where a complainant raises similar complaints against more than one member, then consideration may be given to appointing a single individual to act in any specific role (e.g. Investigating Officer) in relation to one, more than one or all of those complaints.

4.14 Should the respondent raise a complaint about the complainant during the investigation stage, the Associate Director of Complaints and Investigations will determine if both matters can be considered together, or whether an alternative approach is required.

5 INFORMAL RESOLUTION MANAGEMENT

5.1 In some cases, allegations may arise from a misunderstanding, a breakdown in a relationship, or a lack of appreciation of the perspective of the other person or party.

5.2 The RCN will encourage members to reach a resolution in an informal manner where it is appropriate to do so.

5.3 When trying to resolve a matter informally support will be facilitated for mediation or resolution by the RCN.

- 5.4 The first priority is to help a member understand the cause for concern that has been raised and what they may have to do to address it. Where it is appropriate to do and both parties are willing to do so the issues will be addressed informally through supported conversation, feedback or mediation.
- 5.5 The Associate Director of Complaints and Investigations will assign a suitable party to oversee the informal resolution. This party may be an RCN staff member, or a member with an elected or appointed role.
- 5.6 The person handling the informal resolution should give feedback to the individual as soon as possible as they may not be aware of their behaviour or conduct or the impact it has on others. When giving feedback, focus should be placed on the behaviour or conduct and its impact, rather than the person.
- 5.7 The person handling the informal resolution may identify a number of actions that could be taken:
 - 5.7.1 A conversation is held with the member named in the complaint, and feedback offered to the complainant on actions agreed.
 - 5.7.2 Appropriate training or support can be offered to the member to help improve awareness or behaviours. For example, if appropriate a mentor could be appointed to guide and support the member for a period of time. Support and supervision are available for those members acting as RCN representatives.
 - 5.7.3 A conversation could be facilitated between the complainant and the member named in the complaint seeking to explore the concern, and reach a conclusion.
 - 5.7.4 An apology from the respondent member may be requested where deemed appropriate.
 - 5.7.5 The RCN may decide to offer mediation to resolve issues. This would be arranged by the RCN, though it may be necessary or appropriate to involve external mediators.
- 5.8 Outcomes will, where possible be determined by agreement but in some cases the person handling the informal resolution process will be required to make their own decisions, and members will be expected to comply with those decisions. Failure of the respondent member to comply with the decisions may require the matter to move to the formal disciplinary process.

6 FORMAL DISCIPLINARY PROCESS

6.1 Where it is not appropriate to address behaviours or conduct informally; where attempts to resolve them informally have failed; or where matters have already been investigated as part of a customer complaint regarding service, the formal disciplinary process will be followed.

6.2 Where all reasonable attempts have been made to reach a resolution the complainant may ask the RCN to consider whether a formal disciplinary process should be implemented, this would be determined by the Associate Director of Complaints and Investigations, following an assessment of the circumstances of the complaint.

6.3 Investigation

6.3.1 The individual will be notified by the Associate Director of Complaints and Investigations in writing of the concerns raised, the allegations to be investigated and the process that will be followed.

6.3.2 The Associate Director of Complaints and Investigations will assign an Investigating Officer to investigate. The respondent should, where possible, be informed within 7 days from the date of notification who the Investigating Officer is and of the arrangements for the investigation. If there are problems meeting this timescale the member should be kept updated by the Associate Director of Complaints and Investigations.

6.3.3 An appropriate investigation will be carried out, without unreasonable delay by the RCN, to establish the facts of the case so that an informed decision can be made whether to proceed to a Disciplinary Hearing. The investigation should be conducted in line with the Standard of Investigation (Annex C) and should aim to conclude within 12 weeks. All parties will be kept updated on progress, and the reasons should additional time be needed.

6.3.4 Any individual interviewed as part of the investigation will be informed that their statement will form part of the investigation report; and may be used as evidence as part of a Disciplinary Hearing at which an individual may be called to attend as a witness. If an individual requests that their identity be kept confidential, this will be considered by the Associate Director of Complaints and Investigations who shall have full regard to the rights of all concerned including the importance of natural justice for the respondent member.

6.3.5 A respondent member is entitled to representation at an investigation meeting, in line with section 4.10 of this policy.

- 6.3.6 The Investigating Officer should seek to complete the investigation as soon as reasonably practicable, and where possible within 12 weeks. However, where a matter is complex, or availability of relevant parties causes delays, additional time may be required. If the investigation cannot be completed within 12 weeks the Associate Director of Complaints and Investigations should be informed and both the respondent and the complainant kept updated and provided with reasons for the delay.
- 6.3.7 Reasonable consideration will be given to the availability of any party asked to participate in the investigation. Unreasonable, or continuous attempts to delay the process will not be tolerated. Where reasonable attempts to encourage participation have been exhausted a decision will be taken by the Investigating Officer in agreement with the Associate Director of Complaints and Investigations on how to proceed. This may include proceeding in the absence of the witness or respondent member, or indeed in the closure of the investigation should the complainant fail to participate.
- 6.3.8 Once the investigation is completed, the Investigating Officer will present their findings, along with the supporting evidence and their outcome to the Associate Director of Complaints and Investigations.
- 6.3.9 Should the Investigating Officer believe that there is sufficient information to suggest there is a case to answer the matter will proceed to a Disciplinary Hearing.
- 6.3.10 If it is decided by the Investigating Officer that there is no case to answer then the member should be informed within 5 working days, where relevant welcomed back, and supported as necessary.
- 6.3.11 Decisions that there is no case to answer can be accompanied by a recommendation of training, support or mediation where the Investigating Officer identifies this is appropriate.
- 6.3.12 Formal notification of the outcome and following steps will be sent to the member by the Associate Director of Complaints and Investigations within 10 working days of receipt of the report.

7 SUPPORTING MEMBERS

- 7.1 Being involved in a resolution or disciplinary process can be equally as difficult for the complainant as it is for the respondent. All members named or involved in the resolution or disciplinary process should be appropriately supported. The Associate Director of Complaints and Investigations will be responsible for identifying appropriate support

mechanisms and will respond to any requests for additional support during the application of the policy.

- 7.2 Respondents and complainants should be kept fully informed throughout the process by the Associate Director of Complaints and Investigations so that they understand what the next stage will be, who they may be contacted by and when.
- 7.3 Throughout the process it is important that members understand the support available to them. This support can be available through Member Support Services, through support and supervision for accredited representatives, or through their own employer assistance schemes. In addition, members can access the confidential support line managed by Health Hero. Any additional request for further support can be made to the Associate Director of Complaints and Investigations.
- 7.4 In recognition of how difficult and isolating a formal process can be to either party an agreed point of contact may be appointed for the respondent and/or complainant to ensure that they have someone they can discuss matters with while maintaining the confidentiality of the process. This should be someone unconnected with the investigation and not someone who may later be required as a witness.
- 7.5 At any point in the process mediation remains available to all parties.

8 THE DISCIPLINARY HEARING PANEL

- 8.1 Should the investigation determine there is a case to answer the respondent will be notified by the Associate Director of Complaints and Investigations that the matter will proceed to a Disciplinary Hearing. Formal notification of the investigation outcome, and that a matter is proceeding to a panel hearing will be provided to the respondent within 10 working days from receipt of the Investigating Officer's report.
- 8.2 The notification should include:
 - 8.2.1 A summary of the case against the respondent.
 - 8.2.2 The specific allegations to be dealt with at the Hearing.
 - 8.2.3 Any written investigation report arising out of the investigation.
 - 8.2.4 Details of the time and venue for the Hearing.
 - 8.2.5 Confirmation that the respondent may submit witness evidence or documentation in advance of the Hearing.

- 8.2.6 Confirmation of their right to be accompanied at the Hearing in accordance with section 4.10.
- 8.3 The Hearing should be held without unreasonable delay. All parties should be given at least 15 working days' notice to allow sufficient notice to prepare and to attend unless the respondent member agrees to a shorter period of notice.
- 8.4 The Hearing may take place in person, virtually or hybrid dependent on circumstances.
- 8.5 The respondent member can attend in person or submit a written response to the Disciplinary Panel. If the individual or their representative is unable to attend the hearing, then a rescheduled date will be arranged. If the individual does not wish to attend, or if persistent requests to reschedule are made, then if the Panel considers it appropriate to do so, the Hearing may proceed without the respondent member's attendance.
- 8.6 At least 7 days before the Hearing the respondent should:
 - 8.6.1 Submit any written response and documentary evidence they intend to rely on at the hearing.
 - 8.6.2 Advise whether they will attend the hearing, and if so, confirm the identity of any representative.
 - 8.6.3 Confirm the details of any witnesses they may wish to call.
- 8.7 The Disciplinary Panel will be constituted as follows:
 - 8.7.1 Panels will have three RCN members, at least one of whom shall, where possible, be a member of the RCN Council.
 - 8.7.2 Panel members shall have no conflict of interest with the allegations to be heard.
 - 8.7.3 Panels will have knowledge, competence, and awareness of equity, diversity and inclusion.
 - 8.7.4 An external party may be appointed to the Panel if determined necessary by the Associate Director of Complaints and Investigations.
 - 8.7.5 The Associate Director of Complaints and Investigations (or in their absence a delegate) will be present to support the panel.
 - 8.7.6 A transcription of the hearing will be captured.

9 DISCIPLINARY HEARING FORMAT

- 9.1 The Panel will have the power to regulate its own procedure.
- 9.2 Subject to the discretion of the Panel, the order of the Hearing will be as suggested in Annex D but must include:
 - 9.2.1 Findings by the Investigating Officer (or other Presenting Officer if the Investigating Officer is unable to attend)
 - 9.2.2 Any witnesses called by the Investigator (or other Presenting Officer) followed by any questions the respondent or Panel may wish to raise with the Investigator or witnesses.
 - 9.2.3 Representations from the respondent or their representative.
 - 9.2.4 Hearing from any witnesses called by the respondent followed by any questions the Investigator or the Panel may wish to raise with the witnesses.
 - 9.2.5 Closing submissions from the Investigator (or Presenting Officer)
 - 9.2.6 Closing submissions from the respondent or their representative
- 9.3 During the hearing, the respondent may put forward their response to the allegation(s). They should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses.
- 9.4 No new charge against the respondent should be raised at the hearing.
- 9.5 The Disciplinary Panel may adjourn the hearing to allow either party to produce further evidence, or for any reason, at its discretion.
- 9.6 Before a final decision is made, the respondent should be given the opportunity to explain any mitigating circumstances they would like the panel to consider.

10 DISCIPLINARY HEARING OUTCOME

- 10.1 At the conclusion of the Hearing, the Disciplinary Panel decides whether the allegation(s) is/are upheld. This is unless the respondent admits the allegation(s).
- 10.2 The Disciplinary Panel should reach their decision on the balance of probability, having considered all the relevant evidence and any mitigating factors known to them, including (but not exhaustively):

- 10.2.1 Impact on the RCN's delivery of services to users.
 - 10.2.2 Impact on the complainant, or other parties.
 - 10.2.3 Impact on the RCN's reputation and relationship with other organisations.
 - 10.2.4 Whether the concern is part of a pattern, either established in the course of the hearing, or as advised by the Head of Investigations and Complaints.
 - 10.2.5 Whether the disciplinary outcome contemplated is consistent with the treatment of other members as advised by the Associate Director of Complaints and Investigations and determined within the sanction guidance available to the panel. Where there is inconsistency, whether there are objective reasons to justify that.
 - 10.2.6 Any relevant mitigation; and
 - 10.2.7 Any live, formal warning issued under this Resolution and Disciplinary Policy or any previous policies.
 - 10.3 The Disciplinary Panel may conclude the following:
 - 10.3.1 The allegation(s) is/are unsubstantiated and no further action will be taken.
 - 10.3.2 Misconduct, falling short of gross misconduct is substantiated, or;
 - 10.3.3 Gross misconduct is substantiated;
 - 10.4 If the allegation(s) is/are substantiated or admitted the Disciplinary Panel will decide on the appropriate sanction.
 - 10.5 The respondent will be informed by the Chair of the Disciplinary Panel's decision in writing, if possible, within 7 days of the hearing, together with the appeals process if the allegation(s) is/are upheld.
 - 10.6 Should the Panel identify that they require additional time the respondent should be kept informed.
- 11 FORMAL SANCTIONS
- 11.1 Any sanction applied by the Disciplinary Panel should be proportionate to the allegation(s) found proven. They include (but are not limited to) the matters set out below:
 - 11.2 A first written warning may be given if, for example:

- 11.2.1 misconduct/behaviour is minor.
- 11.2.2 similar issues have previously been addressed informally.
- 11.2.3 Such a warning is retained for a period of up to 6 months, after which it will be removed if no further action is required.
- 11.3 A final written warning may be given if, for example:
 - 11.3.1 Further misconduct or behaviour occurs; or the misconduct is sufficiently serious to warrant one written warning. This might occur where actions have had or are likely to have a serious or harmful impact on the RCN or individuals; or
 - 11.3.2 Gross misconduct is established but with insight from the respondent and significant mitigating circumstances.
 - 11.3.3 Such a warning is retained for a period of up to 12 months, after which it will be removed if no further action is required.
 - 11.3.4 If the seriousness of the allegation warrants it a final warning may apply indefinitely.
- 11.4 In addition consideration can be given to:
 - 11.4.1 Requiring the respondent to attend relevant training, updating or support within a set time frame;
 - 11.4.2 Removal from activist, governance role(s) or lifetime awards, or from holding a future activist or governance role(s) permanently, or for a such a period as the Panel may specify;
 - 11.4.3 Suspension of the respondent from all or any benefits of membership for such a period as the Panel may specify;
 - 11.4.4 Expulsion from membership of the RCN (time limited or not time limited)
 - 11.4.5 Some acts, termed gross misconduct are so serious or have such serious consequences that they may call for suspension or expulsion whether a first offence or repeat offence.
 - 11.4.6 Any decision to exclude or expel individuals will be in accordance with Trade Union and Industrial Relations Act 1992 sections 64 and 174 and the Trade Union and Labour Relations (Northern Ireland) Order 1995 Articles 31-34.

- 11.5 Any sanction should be confirmed in writing to the member by the Panel Chair. This written notification should include:
- 11.5.1 The nature of the misconduct.
 - 11.5.2 If appropriate, the improvement in conduct that is expected, and the time period given for such improvement.
 - 11.5.3 The time period of any sanction.
 - 11.5.4 The action being taken and how long that action or warning will remain in place.
 - 11.5.5 The consequences of further misconduct during this time, or of failure to comply with the sanction.
 - 11.5.6 Their right to appeal, how it should be made and to whom.
- 11.6 If the respondent is a registrant of a regulatory body and following the process the incident has been proven and the finding was one of gross misconduct, consideration will be given to informing the relevant regulatory body. The Chair of the Disciplinary Panel will make this decision in conjunction with panel members, with reference to the regulatory body's guidance on referrals. Any such decision should be discussed with the RCN before proceeding with a referral.
- 11.7 In the case where a member fails to comply with a training, updating or supportive action (see 11.4.1 above) arrangements will be made for the panel to reconvene. The reconvened panel will follow the processes set out in sections 8, 9 & 10 and will seek to understand the non-compliance.
- At the reconvened hearing the Panel can:
- 11.7.1 Put in place support to ensure compliance.
 - 11.7.2 Amend the timeline for completion of the action; and/or
 - 11.7.3 Change the sanction on the basis of the impact of the non-compliance.
 - 11.7.4 Further occurrences of non-compliance will be considered under the formal disciplinary process.
- 11.8 Where a formal sanction is imposed the member cannot hold any governance roles within the RCN whilst those sanctions remain in place.
- 11.9 Any governance role held will be suspended for the duration of the appeal process if an appeal is lodged.

11.10 Any sanction imposed will not take effect until expiry of the time limit within which the respondent can submit an appeal or, if an appeal has been submitted, until such time as the appeal has been determined.

12 APPEAL PROCESS

12.1 A respondent may appeal against any finding where an allegation has been proven and any sanction imposed under this process.

12.2 The member may raise an appeal by submitting a written statement to the Associate Director of Complaints and Investigations.

12.3 Requests for appeals must be submitted within 1 month from the date of the outcome letter.

12.4 The respondent can appeal under the following grounds:

12.4.1 Whether the procedure was followed correctly.

12.4.2 If the outcome was too severe or disproportionate.

12.5 The Appeal will be dealt with impartially, and by an independent Appeal Panel who were not involved in the original investigation or hearing.

12.6 Appeals will be heard, wherever reasonably practicable, within 25 working days of the appeal being submitted.

12.7 No new evidence may be introduced which was not before the initial hearing without the permission of the Appeal Panel, unless the evidence was not reasonably available at the time of the initial hearing to the party seeking to introduce it.

12.8 The Appeal Panel will be constituted in accordance with the principles set out for Disciplinary Panels at paragraph 8.7 above. The members of the Panel should have had no prior involvement in the process.

12.9 The Appeal Hearing will constitute a review of the outcome decision in line with the grounds of appeal.

12.10 Respondents are entitled to be represented at the appeal by an appropriate person in line with section 4.10.

12.11 The Appeal Panel can:

12.11.1 Uphold the decision in full.

12.11.2 Uphold the decision but partially or fully overturn or vary the findings.

12.11.3 Overturn the decision and substitute it with the Appeal Panel's decision and any related findings.

12.12 Respondents should be informed in writing of the results of the Appeal Hearing, where possible within 7 days. This will include the ability of the member to hold a governance role within the RCN following the appeal outcome.

12.13 Where an appeal is successful, all records relating to the original action will be kept in line with the RCN's retention period but under strict confidentiality.

12.14 The decision of the Appeal Panel is final.

13 SUSPENSION AS A PRECAUTIONARY MEASURE

13.1 There may be circumstances where the RCN determines that interim measures are required. These measures may be appropriate during investigation or pending the outcome of a Disciplinary Hearing Panel, or Appeal Panel. This may include suspension from undertaking specific RCN duties, or activities, or from holding RCN office. On occasions RCN membership itself may be suspended, but this will not affect continuity of membership and member support services will continue to be available.

13.2 Suspension may apply to some, or all of the following:

13.2.1 Access to RCN computer systems, including any RCN email accounts or access to relevant Governance or Membership Data systems.

13.2.2 Use of RCN devices.

13.2.3 Accrual of expenditure on behalf of the RCN.

13.2.4 Acting on behalf of the RCN or use the role suspended from in correspondence and communication.

13.2.5 Entering RCN premises.

13.2.6 Attending RCN events or events on behalf of the RCN.

13.2.7 Access to specified RCN services.

13.2.8 Reference to an RCN accredited, governance role or lifetime award.

13.3 Interim measures may be invoked by the Associate Director of Complaints and Investigations, with agreement of the Executive Director of

Governance, the Chief People Officer and a member of the Executive Team holding NMC registration, (or in their absence a delegate) for one of the following reasons:

- 13.3.1 To enable a full and proper investigation to take place.
- 13.3.2 Where it would not be in the interests of the RCN to remain in their role or active membership pending resolution of this procedure.
- 13.3.3 Where it is considered in the interests of the respondent, the complainant, the RCN, staff or other members.
- 13.3.4 To provide protection for the respondent and complainant from further allegations or complications while matter is investigated.
- 13.4 It is recognised that any element of suspension can be upsetting and have a negative effect on the individual. It is not a step that will be taken automatically, and the relevant circumstances must be weighed up before deciding to suspend a member and the terms of that suspension. Any assessment should be documented using the Record of Suspension Checklist (Annex E). These measures should be reviewed on a monthly basis and on receipt of the investigation findings.
- 13.5 Requests from the respondent to access an RCN device or account in order to obtain relevant evidence as part of the investigation process should be made to the Associate Director of Complaints and Investigations.
- 13.6 Suspension in these circumstances is not a sanction and does not involve any prejudgement of the issue in question. Existing terms of office will continue for those members holding elected or appointed roles during the period of suspension.
- 13.7 Suspended respondents may be asked to meet agreed conditions by the Associate Director of Complaints and Investigations before resuming their full responsibilities. At the end of the suspension, and where appropriate the respondent will be welcomed back to their role, except in circumstances where their term of office has expired.
- 13.8 **COMMUNICATING THE DECISION TO PRECAUTIONARY SUSPEND**
 - 13.8.1 The Associate Director of Complaints and Investigations should inform the member of their decision to suspend as a precautionary measure, verbally where possible, and in writing.
 - 13.8.2 The member should be informed of the likely duration of the suspension, and the terms of that suspension.

13.8.3 The member should be made aware of the support services available to them during this period.

13.8.4 Relevant staff members may also be informed to ensure that arrangements can be made in line with section 13.2.

13.9 TIMESCALES FOR SUSPENSION

13.9.1 Suspension should be kept under review monthly to ensure it does not last longer than necessary as where possible investigations should be concluded within 12 weeks.

13.9.2 When reviewing interim measures, the respondent and their representative will be invited to make a submission ahead of a suspension review and offered the opportunity to meet with the Associate Director of Complaints and Investigations to discuss the review. Each review should be documented using the Record of Suspension Checklist (Annex E)

13.9.3 The Investigating Officer should inform the Associate Director of Complaints and Investigations if any new information comes to light during their investigation which may have an impact on the suspension decision and require further review, all of which would be discussed with the relevant parties.

13.10 SUPPORTING MEMBERS DURING SUSPENSION

13.10.1 Where a respondent has been suspended from their representative role and this is likely to impact on their employment because they undertake paid release under a facility agreement, their employer will be informed of the suspension to ensure that the local facility agreement is followed and that the respondent is treated 'without prejudice' as a result.

13.10.2 Where a respondent has been suspended from their representative role, alternative representation will be arranged for any of their on-going member cases through their Country/Regional Office.

13.10.3 Requests for support and assistance by the respondent can be made at any point in the process in recognition of the impact suspension can have. This includes access to the confidential support line managed by Health Hero.

13.10.4 Where a respondent has been suspended, they can identify an agreed point of contact who can provide support and a confidential space for the respondent to discuss the ongoing process. This

support is in addition to their right to representation. This should be someone unconnected with the investigation and not someone who may later be required as a witness.

13.10.5 The Associate Director of Complaints and Investigations will maintain contact with the respondent during this period, to keep them informed, offer and arrange support.

14 DEALING WITH CRIMINAL OR POTENTIAL REGULATORY OFFENCES

- 14.1 If on conclusion of a Disciplinary Hearing, the incident has been proven and the finding was one of gross misconduct, consideration will be given to informing the relevant regulatory body. In some circumstances this may be a requirement of registration. The Chair of the Disciplinary Panel, in conjunction with panel members will make this decision, which will be discussed with the RCN prior to making a referral. For the avoidance of doubt, this is not a disciplinary sanction.
- 14.2 Where suspected misconduct constitutes a matter that warrants reporting to the police or to a regulatory, professional or other external body ahead of the outcome of a panel hearing, the Associate Director of Complaints and Investigations, the Executive Director of Governance and a member of the Executive Team holding NMC registration will be responsible for making such a decision. Advice may be sought from internal or external professional advisers where appropriate in making this decision. The respondent will be informed that this step has been taken.
- 14.3 Further, the requirement to consider this step on conclusion of a Disciplinary Hearing does not affect any person's entitlement or professional obligation to refer a member to the appropriate regulatory body at any stage.
- 14.4 Where the respondent is charged with, or convicted of, a criminal offence(s), the Associate Director of Complaints and Investigations should seek advice regarding any action to take.
- 14.5 While a criminal charge or offence outside RCN membership will not automatically be regarded as a reason for action, the parties referred to at section 13.1 will consider whether to invoke this policy and procedure where the charge or conviction constitutes misconduct, for example by bringing the RCN into disrepute.
- 14.6 Appropriate action will be taken where it is considered that the charge or conviction makes the respondent unsuitable for any role they may hold for the RCN.

15 POLICY REVIEW AND REPORTING

- 15.1 It is the responsibility of Associate Director of Complaints and Investigations to monitor and review this policy, and to recommend any necessary changes to the Executive Team and RCN Council.
- 15.2 RCN Council will receive regular reports on the themes, trends and performance of this policy.

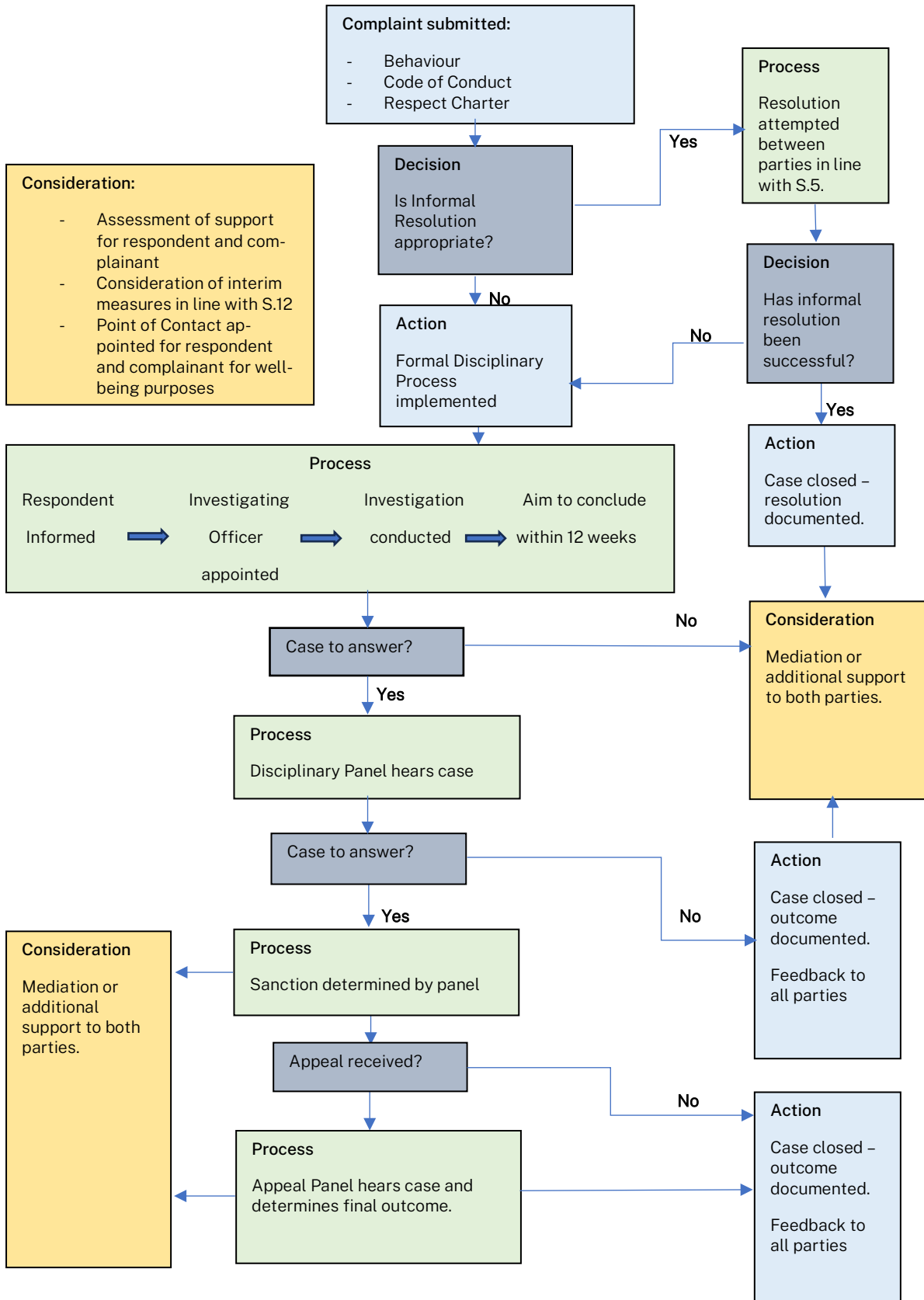
16 RAISING CONCERNS

- 16.1 The RCN complaints process does not apply to concerns regarding the application of the Member Resolution Policy.
- 16.2 The appeal process against sanctions imposed by a disciplinary panel is set out in section 12 of this policy.
- 16.3 Members who have concerns regarding the application of this policy are entitled to raise their concerns for consideration by the RCN's designated Member Resolution Guardian. The guardian is an independent external advisor who can be contacted at memberresolutionguardian@rcn.org.uk.



ANNEX A

FLOWCHART – MEMBER RESOLUTION PROCEDURE





ROLES AND RESPONSIBILITIES

- 1 The Chair of Council is responsible to members for the appropriate implementation of this policy and procedure.
- 2 The overall responsibility for the operation of this policy in practice sits with the Executive Director of Legal and Member Relations.
- 3 All staff and members have a responsibility to report concerns appropriately, and to support and participate in the Member Resolution and Disciplinary Process.
- 4 Investigators will:
 - 4.1 Ensure a thorough investigation takes place and produce an investigation report within 12 weeks where possible, ensuring that all necessary steps are taken without any unreasonable delays.
 - 4.2 Be impartial and without conflicts of interest.
 - 4.3 Comply with the Investigation Standards (Annex C)
 - 4.4 Make a finding as to whether there is a case to answer and whether the matter should proceed to a Disciplinary Hearing.
 - 4.5 If so, the Investigating Officer shall present their findings at a Disciplinary Hearing.
- 5 Associate Director of Complaints and Investigations (or in their absence a delegate) will:
 - 5.1 Take the time to explain the process; to explain who the respondent will be contacted by and what to expect in respect of the process and investigation, because the member may understandably feel anxious about the process.

- 5.2 Make the respondent aware of support available to them through Member Support Services, and other services as well as the options for arranging appropriate representation.
- 5.3 Decide whether informal resolution is appropriate and if so, appoint the individual who will deal with the informal resolution.
- 5.4 Inform the respondent of the outcome of the investigation.
- 5.5 Determine whether suspension needs to be applied while a matter is investigated having consulted with the Executive Director of Governance, the Chief People Officer and a member of the Executive Team holding NMC registration.
- 5.6 Keep any suspension under review and document those decisions fully.
- 5.7 Decide on the terms for any removal of suspension.
- 5.8 Appoint Investigating Officers.
- 5.9 Establish Disciplinary Panels and provide support to the Panel as required and attend the hearing.
- 5.10 Act as a point of contact for members involved in the process and keep them updated as the matter progresses.
- 5.11 Make arrangements for an agreed point of contact for the respondent and/or the complainant during formal stages.
- 5.12 Acknowledge appeal requests submitted by members.
- 6.0 Disciplinary Panels will:
 - 6.1 Convene and hear disciplinary hearings, and after considering all the evidence presented, determine the outcome of any hearing.
 - 6.2 If the outcome results in a sanction, these will be issued in line with the Member Resolution and Disciplinary Policy and associated guidance by the Panel. The Panel will inform the respondent of the outcome in writing within a reasonable time period and without delay.
 - 6.3 If the sanction is to comply with training, updating or supportive action and the respondent fails to comply with that, the Panel will reconvene to understand the reason for non-compliance.

- 6.4 If appropriate, consider referral to a regulatory body as set out at paragraph 14.1.
- 7.0 Appeal Panels will:
 - 7.1 Convene and hear appeal hearings, and after considering the matter, determine the outcome.
 - 7.2 Inform the respondent of the outcome in writing within a reasonable time period and without delay.
 - 7.3 If appropriate, consider referral to a regulatory body as set out at paragraph 14.1.
- 8.0 Member Resolution Guardian will:
 - 8.1 Act as an independent party where concerns are raised about the application of the policy.
 - 8.2 Liaise with the Associate Director of Complaints and Investigations and the respondent to determine an appropriate solution to matters raised.
 - 8.3 Communicate the outcome of any concern raised and the steps taken to address the situation.



STANDARDS OF INVESTIGATION

Step One: Initiating the Investigation

The Investigating Officer should:

- Have received clear Terms of Reference, and a copy of the complaint submission.
- To consider all allegations within the [ACAS definition of harassment and discrimination](#).
- Invite the complainant to an investigatory meeting to discuss their concerns. There is no need for representation for the complainant, but they may wish to bring someone with them for support. This should be someone unconnected with the investigation and not someone who may later be required as a witness.
- The respondent should also be invited to an investigatory meeting in order to provide them with an opportunity to respond to any allegations.
- During the investigating meeting, the respondent will be given every opportunity to respond to the allegations, to give their account of events and/or to explain any mitigating circumstances.
- Do everything they can to accommodate and encourage participation of all parties in the process.
- Ensure all parties are made aware that the details of their interview may be shared with the respondent in full should a matter proceed to Panel.
- The respondent has the right to representation during the investigatory stage by an appropriate person, as defined in 4.10 of the Member Resolution and Disciplinary Policy.
- The complainant and respondent should be asked if there are any individuals, they would recommend the Investigating Officer speak to. It is ultimately the Investigating Officer's decision as to who is interviewed, and it does not preclude other witness evidence to be sought. The investigation should not be considered concluded until all relevant witnesses have been spoken with.
- Complete the Investigation within 12 weeks where possible and where additional time is required to avoid unnecessary delays.
- Keep the Associate Director of Complaints and Investigations updated on any matters that may impact on the timeframe for the investigation.
- In exceptional circumstances (for example prolonged sickness, or as a reasonable adjustment), by mutual consent of the parties, a written statement may be obtained via correspondence rather than by interview. In

this case, the Investigating Officer will send the member the questions to which a response is required.

- Should the respondent fail to attend an investigation meeting/or to provide a written response to the allegation(s), the Investigating Officer may at their discretion decide to complete the investigation report in the absence of an interview record and/or written response from the member. The Investigating Officer must be satisfied that the member has been given a reasonable opportunity to respond but has failed without good reason to do so.
- Should the respondent raise a complaint about the complainant during the investigation stage, the Associate Director of Complaints and Investigations will be notified to determine appropriate action.

Step Two: Obtain Information

The Investigating Officer should:

- Obtain statements and interview any witnesses in relation to the alleged misconduct.
- Identify, obtain and review any additional documents which they consider may be relevant to the disciplinary case as relevant.
- Collect and examine any relevant written records.
- Collect any other relevant documentation and supporting evidence from witnesses and other individuals.
- Evidence must consider both the intention but also the impact on others.

Witness evidence

A copy of the statement/notes made during the investigatory meetings will be provided to the interviewee who will be asked to validate and agree the statement as a true and accurate record of the information provided at interview.

Any third party from whom a statement or information is obtained should be informed that it may be used as part of the disciplinary process and would be shared with the respondent against whom the allegations(s) have been made as part of the disciplinary process.

Statements should be returned signed, with or without amendment, within 5 working days of the date received to avoid delays.

Should a statement not be received within this timescale without reasonable explanation, the Investigating Officer will presume the interviewee does accept the notes as a true and accurate record of the information provided during the interview.

Any individual interviewed as part of the investigation will be informed that their statement will form part of the investigation report; and may be used as

evidence as part of a disciplinary hearing at which an individual may be called to attend as a witness.

Step Three – Investigation Report

On completion of the investigation the Investigating Officer will produce a report setting out a recommendation of one of the following courses of action, along with the supporting evidence:

- no action to be taken.
- recommend that there is sufficient case to answer and that the matter is brought to a Disciplinary Hearing

The report should include:

- Agreed and dated statements for each party interviewed.
- Copies of any relevant evidence, documentation or reference relevant to the findings of the investigation, in chronological order.
- Explanation of any information regarding witnesses not spoken with, or evidence not sought and the reasons for this.

If any other related or unrelated conduct issues emerge during an investigation, the Investigating Officer should inform the Head of Investigations and Complaints of these matters for consideration on whether further action is required, and whether these should form part of the same or a separate investigation.

The Investigating Officer will be required to present their findings should it proceed to a disciplinary hearing, which will involve preparing questions for any witnesses to be called and making submissions.



DISCIPLINARY HEARING PROCEDURE

Preparation

The respondent should be given a minimum of 15 working days' notice of the date, time and location of the disciplinary hearing to allow sufficient notice to prepare and attend.

At least 7 days before the hearing the respondent should submit any written or documentary evidence, advise whether they will attend the hearing, and confirm the details of any witnesses they may wish to call.

During the hearing, the respondent's representative may make representations to the Panel, and ask questions on their behalf, but should not answer any questions for the respondent. The respondent has the opportunity to confer with their representative in private at any point during the hearing.

The Hearing

The following order of hearing should be used as a guide:

- 1) Introductions
- 2) The purpose of the hearing is explained.
- 3) The procedure to be followed is explained.
- 4) All parties are reminded of the confidentiality of the matters to be heard
- 5) Parties to be advised if the hearing is being recorded as part of transcription
- 6) The Investigating Officer's findings and case are presented.
- 7) The Investigating Officer can call and question any witnesses they wish to call.
- 8) The respondent and their representative can question any witnesses called by the Investigating Officer
- 9) The Panel can ask any questions of the witnesses called by the Investigating Officer
- 10) The Investigating Officer may, if they wish, clarify any outstanding points with their witnesses.
- 11) The respondent and their representative, or the Panel, can ask questions of the Investigating Officer.
- 12) The respondent and their representative present their case.
- 13) The respondent and their representative can call and question any witnesses they wish to call.

- 14) The Investigating Officer can ask questions of the witnesses called by the respondent.
- 15) The Panel can ask any questions of the witnesses called by the respondent and their representative.
- 16) The respondent and their representative may, if they wish, clarify any outstanding points with their witnesses.
- 17) The Investigating Officer and/or the Panel can question the respondent.
- 18) The Investigating Officer's case is summed up.
- 19) The respondent's case is summed up.
- 20) The respondent is asked if there is anything further they wish to add.
- 21) The Panel retires for deliberations.

The respondent will be informed of the outcome of the hearing in writing, along with their right of appeal, by the Panel Chair within 7 days of the hearing where possible, unless otherwise confirmed to the Respondent.

In some cases, it may be necessary to adjourn the hearing if the Panel find it necessary to carry out any further investigation in light of any new points that have been raised at the hearing. If this is the case, the respondent will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.



SUSPENSION CHECKLIST

Record of Interim Measures/Review Checklist

Please complete the following checklist when considering any case where interim measures are applied.

Member Name		
Member region/country and role within RCN if appropriate.		
Allegation & date		
Managers authorising suspension & date		
Date of interim measure		
Date interim measure to be reviewed & by whom		
Consideration	Y/N	Comments
		Continue on a separate sheet as necessary
Does the member remaining in place present a threat, danger or a risk to themselves or others?		
Is there a risk that the member might interfere with or compromise an investigation by remaining in their role/membership?		
Is there a concern that further serious misconduct or offences might occur?		
Could this allegation be regarded as misconduct or gross misconduct?		
Have criminal charges/professional regulatory body complaint been brought against the member?		

Member Resolution and Disciplinary Policy v1.3

Would it be difficult to continue in their role during the investigation?		
Is there a concern that without interim measures the respondent may remain at risk to further challenge or allegations?		
Have all alternatives to suspension been considered? If so, what? For what reason(s) have these been discounted?		
What terms or conditions should be in place for the interim measures?		

1st Interim Measures Review:

Date measures reviewed and by whom	
Are interim measures to continue?	
What information was considered when deciding on review outcome?	
Date member informed of outcome of interim measures review:	

2nd Interim Measures Review

Date measures reviewed and by whom	
Are interim measures to continue?	
What information was considered when deciding on review outcome?	
Date member informed of outcome of interim measures review:	



RCN Code of Conduct

This Code of Conduct provides guidance on the expected behaviour of members of the Royal College of Nursing (RCN) and sets out the standards of conduct that support our values in the work that we do. It will be applied reasonably and proportionally and applies to all members of the RCN.

- 1.1 The RCN is committed to promoting a culture that is inclusive of all members.
- 1.2 Members must conduct themselves so as to maintain the individual and collective reputation of the RCN and its members.
- 1.3. The RCN welcomes open debate and free exchange of ideas: where every member feels able to contribute, assured that their points of view will be valued and differences of opinion will be respected.
- 1.4 The code ensures that there is parity between staff and members, with each being held to an equitable standard of conduct.
- 1.5 Members are expected to maintain a high standard of personal conduct and to treat staff and other members with respect.
- 1.6 It is the responsibility of all RCN members to promote positive behaviours, challenge poor behaviours and report any concerns.
- 1.7 The RCN will support members and staff who challenge poor conduct and behaviours.
- 1.8 Every RCN member, including those elected into a representative or governance role is bound by this code of conduct when acting on behalf of the RCN.
- 1.9 All members must comply with relevant RCN policies.
- 1.10 In the event of this Code of Conduct being breached, incidents will be handled in accordance with The RCN Member Resolution Policy

Principles of behaviour for members holding an elected or appointed role, in addition to those above are:

2. Be Respectful to others

- 2.1 Everyone has the right to contribute and should be encouraged to do so, every contribution is valued.

- 2.2 Everyone should ensure that work is typically undertaken in a constructive manner and there is a clear commitment on the part of the RCN to ensuring, that everyone is at all times treated with dignity, courtesy and respect.
- 2.3 Encourage others to express opinions and ideas.
- 2.4 Encouraging inclusive team working in which everyone's unique contribution is valued and recognised; where every individual is able to contribute effectively to realise their full potential with dignity and respect.
- 2.5 Listen to one another respectfully and be open to others' ideas and opinions.
- 2.6 See things from the point of view of others and be prepared to change your mind, consider the time, place and impact on others.
- 2.7 Consider other member's ideas to change or improve work.
- 2.8 Debate openly and challenge constructively, but support decisions made democratically and collectively.
- 2.9 Promote a culture where individuals feel confident and comfortable in raising any concerns regarding offensive or unacceptable behaviours that they have directly experienced or witnessed.

3. Be Representative

- 3.1 Where possible and appropriate seek the views of your constituents on the issues that affect them, sharing relevant information and feedback any outcomes, which are not confidential to your constituents.
- 3.2 Represent constituents' views at meetings and when voting.
- 3.3 Act in the best interests of members.
- 3.4 Recognise positive behaviours but challenge disrespectful and inappropriate behaviours.
- 3.5 Be welcoming.

4. Be Accountable

- 4.1 Members must act within the standing orders and regulations of the Royal College of Nursing Royal Charter and promote the success of the College for the benefit of its members in exercising reasonable care, skill and diligence in all their duties.
- 4.2 Members should also be aware of any potential conflict of interest and identify the risk that their ability to apply judgement could be influenced by a secondary interest. Members are required to complete and regularly update the register of interests. Where a potential conflict of interest exists, members must declare this before a debate, or a decision is made. This may limit their participation in debate and/or decision-making.

- 4.3 Confidentiality must be maintained. Information about, or held by the RCN, that is not expressly put into the public domain by the College may only be given to others if they are entitled to receive it and must not be used except for the benefit of the College.
- 4.4 Those Members holding governance roles must comply with '*The Fit and Proper Person Test 2018*'.

This code of conduct should be read in conjunction with the following:

The RCN Respect Charter 2017

The NMC Code Professional standards of practice and behaviour for nurses, midwives and nursing associates <https://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/nmc-code.pdf>

The RCN Fit and Proper Person Test 2019

The RCN Customer Complaints Policy 2024.

Relevant RCN Policies including The Expenses Policy for Unpaid Office Holders 2018



DOCUMENT AND VERSION CONTROL

Version	Date	By	Summary
V1.0	January 2024	Member Relations	Full review of policy, layout and content.
V1.1	March 2024	Member Relations	Additional clarification around roles and process for considering interim measures.
V1.2	July 2024	Member Relations	Revisions to policy content following feedback from RCN Council.
V1.3	August 2024	Member Relations	Revisions to policy content following feedback from RCN Council on approval in July 2024
V1.3	January 2025	Member Relations	Minor change reflecting job title.